

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:15-CR-00264-RJC-DSC

USA

v.

SEAN MAURICE ROBINSON

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ORDER

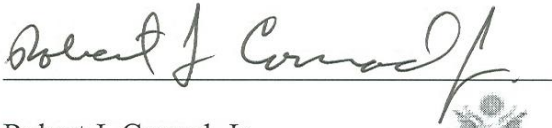
THIS MATTER is before the Court upon motion of the defendant pro se to vacate his career offender sentence in light of Sessions v. Dimaya, 138 S. Ct. 1204 (2018), because that decision allegedly invalidated the use of his California corporal spouse abuse conviction as a crime of violence. (Doc. No. 32).

The defendant's conviction and sentence became final in 2016 when he did not file an appeal following entry of the judgment. (Doc. No. 26: Judgment). Accordingly, the defendant must seek relief pursuant to 28 U.S.C. § 2255. However, the Court denied his previous motion under § 2255, (Doc. No. 29: Order), and the defendant has appealed that ruling, (Doc. No. 30: Notice of Appeal). Therefore, the defendant has not shown that the Court has jurisdiction to consider another post-conviction attack on his sentence. Additionally, the defendant's reliance on Dimaya is misplaced because that decision's invalidation of 18 U.S.C. § 16(b) has no bearing on his sentence decided under USSG §4B1.2(a).

IT IS, THEREFORE, ORDERED that the defendant's motion, (Doc. No. 32), is **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, and to the United States Attorney.

Signed: May 16, 2018

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

